



## **Refugee Protection Situation Report Volume 2, Issue No.7 of 2018**

**Period: 1<sup>st</sup> June – 30<sup>th</sup> June**

**Date: 13<sup>th</sup> July, 2018**

### **Introduction**

This report focuses on refugees and asylum seekers' protection situation in Kenya. Specifically, it provides information on arrest and arraignment of cases at police stations and courts of law respectively in the period indicated above. It also addresses access to territory for refugees and asylum seekers across various border entry points in Kenya. The report is produced by the Refugee Consortium of Kenya (RCK) on a monthly basis with the financial support of the Human Security Division of Federal Department of Foreign Affairs of the Swiss Confederation, Sigrid Rausing Trust, United Nations High Commissioner for Refugees (UNHCR) and the United Nations Voluntary Fund for Victims of Torture (UNVFVT).

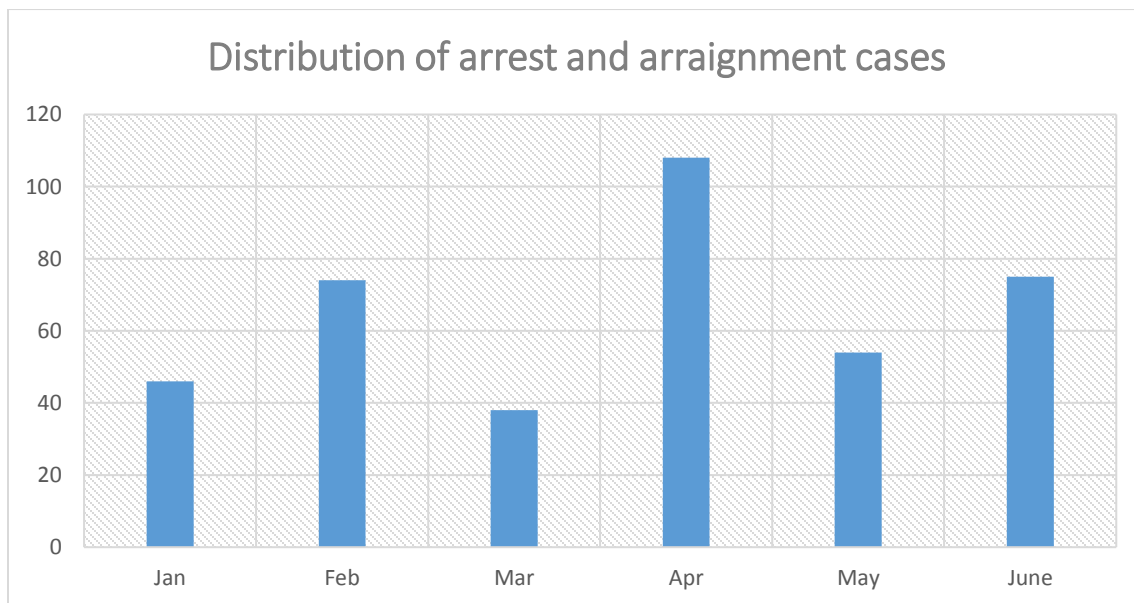
Data used for this report was collected by 9 RCK legal officers and 40 protection and border monitors. It was collected on a daily basis and was reinforced by information collected during legal interventions at police stations and courts of law. The geographical areas covered for detention monitoring included Dadaab, Garissa, Kakuma and Nairobi. Cross border movement data covered 12 entry points along the Kenyan border. These were Abdisugow, Amuma, Busia, Dajabula, Damajale, Degelema, Diif, El-Wak, Kitale, Kulan, Liboi and Malaba border points.

In the period under review, there was an increase of arrest and arraignment cases recorded. The figure rose from 54 cases in May to 75 cases in June. Seventy-three of the 75 cases related to the offence of unlawful presence contrary to section 53(1) (j) of the Kenya Citizenship and Immigration Act, 2011. The other two cases related to the offence of residing outside a designated area contrary to section 25(f) of the

Refugees Act, 2006. Fines and jail terms recorded in June were significantly lower than those recorded in May. The highest fines recorded in June was Ksh.41,000 as compared to Ksh.100,000 in May. The longest sentence imposed by the court in June was six months imprisonment as compared to 12 months imprisonment in May.

### Arrests and Arraignment Cases

Seventy-five asylum and immigration cases were recorded in the period under review. This amounts to 39 percent increase from the number of cases reported in May, 2018. The total number of cases recorded since January stands at 395, 77 percent of which related to the offence of unlawful presence contrary to section 53(1) (j) of the Kenya Citizenship and Immigration Act, 2011. The remainder of the cases (23%) related to the offence of residing outside a designated area contrary to section 25(f) of the Refugees Act, 2006. Sixty-four percent of the cases involved men while 23 percent of the cases involved women. Minors accounted for 13 percent of the cases since January, 2018 with a ratio of 9 to 4 in favour of the boys. Table 1 below provides a breakdown of the types of cases that RCK staff intervened in the month of May, 2018.



**Graph 1: Distribution of cases of arrested and arraignment recorded by RCK since January, 2018.**

### Summary of reports of arrests and arraignments

Place of Incident	Incident	Characteristics of PoCs	Status of Situation
Busia	Arraignment: unlawful presence/possession of forged passport	52 Ugandan nationals (27 adult males and 25 adult females)	All the accused persons were convicted and fined Ksh.2,000 or serve two months in prison each in the alternative. They paid the fines and were released. They had come to Kenya to look for employment and not asylum. Nonetheless, such a case casts doubt on the implementation of the East African Community principle of free movement of goods and people (labour).
Garissa	Arraignment: Residing outside a designated area without authorization	1 Somali adult male	The accused person was discharged and ordered to go to the Dadaab refugee camp.
	Arraignment: Unlawful presence	1 Malawi adult male	The accused person was convicted of the offense. An order of deportation was issued against him. RCK officers ascertained that the man was not seeking asylum in Kenya.
Kakuma	Arraignment: Unlawful presence	7 people (3 South Sudanese adult males and 4 Burundi adult female)	All the accused persons were acquitted after RCK presented evidence that they were all registered refugees in Kenya.

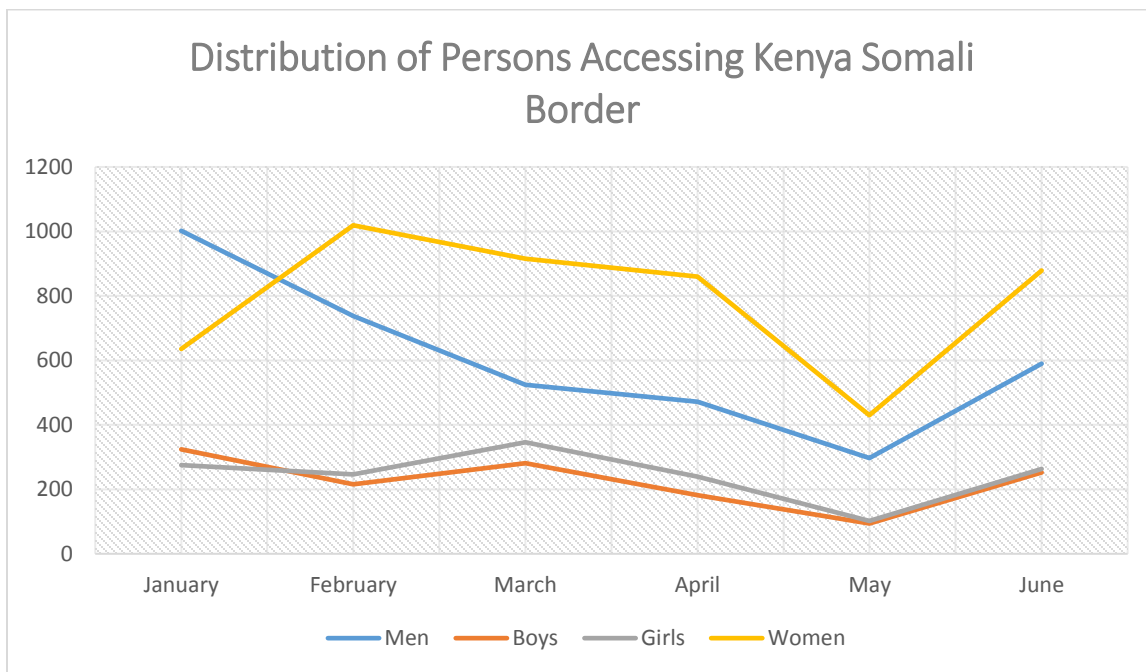
	Arraignment: Residing outside a designated area without authorization	1 South Sudanese minor male	The accused person has left the camp in search of education. He was discharged by the court with a stern warning to seek a pupil's pass before leaving the camp. RCK officers mitigated in his behalf.
Mandera	Arraignment: Unlawful presence	7 Somali nationals (5 adult males and 2 adult females)	All the accused persons were convicted of the offence. They were fined Ksh.40,000 or serve 3 months imprisonment. The accused persons indicated that they were not seeking asylum. They indicated that they had come to Kenya to seek economic opportunities.
Malaba	Arrest: Unlawful presence	1 Congolese adult female	The woman was released after RCK border monitor intervened on her behalf. She presented refugee documents to the police and was released to go to Nairobi where her family resides.
Mwingi	Arraignment: Unlawful presence	1 Somali adult male	The accused person pleaded not guilty and the case is on-going. RCK officers are working on this case to ascertain whether the man is a registered refugee as he claimed in court.
Wajir	Arraignment: Unlawful presence	4 Somali adult males	All the accused persons were convicted. They were fined Ksh.41,000 or spend six months in prison in the alternative.

**Table 1: Breakdown of arrest and arraignment cases**

## Access to Territory

### Dadaab

In the period under review, the number of foreign nationals entering Kenya from Somalia was 1984. This represents a 115 percent increase compared to the figure recorded in April, 2018. This increase was largely occasioned by increased mobility due to the improvement of the security situation along the Kenya-Somali border. Seventy-four percent of the 1984 individuals were adults (30% men & 44% women) while 26 percent were minors (13% boys & 13% girls). The total figure for border entry observations since January, 2018 stands at 11,181. Graph1 below shows the distribution of the persons entering Kenya from Somalia desegregated broadly by age and gender while figure1 below shows the distribution of border entry observations since January, 2018.



**Graph 2: Distribution of persons entering Kenya from Somalia by age and gender.**

## NUMBERS OF BORDER ENTRIES PER LOCATION

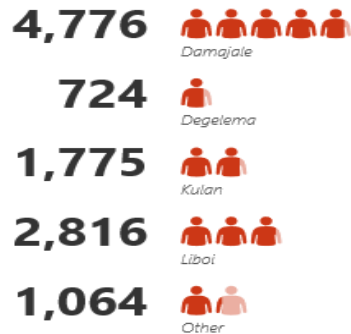


Figure 1: Number of border entries since January, 2018

Damajale recorded the most entries among the areas that RCK was monitoring in the period under review. Border entries observed at this point accounted for 43 percent of all the border entries recorded. This was followed by Liboi (25%), Kulan (16%) and Degelema (7%). These four locations are near the Dadaab Refugee Camp complex which could explain the high levels of border entry observations. The other locations include Abdisugow, Amuma, Diif and El-Wak which accounted for 10 percent of the entries.

The individuals observed crossing into Kenya were Somali nationals. They cited their reasons for flight as insecurity arising from militia groups controlling the stated areas of origin and political differences between them and the ruling class therein.

### *Kitale*

Thirty-four asylum seekers were recorded to have accessed Kenyan territory through this border point. They were 24 Burundian nationals, one South Sudanese, one Ugandan and eight Congolese nationals. They were all assisted to go to Kakuma refugee camp where they were registered.

### **Conclusion**

The number of reported cases of arrests and arraignments rose in June as compared to those recorded in May. However, the month of June has the lowest recorded number of arrests and arraignments in the past six months with respect to the offence of residing outside a designated area. Moreover, those arraigned

for the offence of unlawful presence and presented their refugee documents were acquitted of the offence which carries a mandatory deportation order. Additionally, asylum seekers also had fair access to territory with no reports of *refoulement* recorded. The number of foreign nationals accessing Kenyan territory in search of asylum increased two-fold. These two indicators point towards a reasonably favourable asylum space par the limitations imposed on other refugee rights.

*For more information kindly contact Ms. Eunice Ndonga-Githinji, Refugee Consortium of Kenya  
Executive Director at [refcon@rckkenya.org](mailto:refcon@rckkenya.org)*